

U. S. DEPARTMENT OF LABOR
Employees' Compensation Appeals Board

In the Matter of ROSEMARIE TEETS and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, MI

*Docket No. 99-1340; Submitted on the Record;
Issued December 8, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
VALERIE D. EVANS-HARRELL

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for reconsideration on the grounds that it was untimely and failed to show clear evidence of error.

The Board has duly reviewed the evidence of record and finds that the Office properly denied appellant's request for reconsideration.

Section 10.607 of the Code of Federal Regulations provides that an application for reconsideration must be sent within one year of the date of the Office decision for which review is sought. The Office will consider an untimely application only if the application demonstrates clear evidence of error on the part of the Office in its most recent merit decision. The application must establish, on its face, that such decision was erroneous.¹

On June 2, 1997 the Office issued a decision denying appellant's claim for compensation on the grounds that fact of injury was not established. The Office explained that the medical evidence failed to provide a specific diagnosis and also failed to provide an opinion on causal relationship. An attached statement of appeal rights advised that any request for reconsideration must be filed within one year of the date of the decision.

In an undated letter received by the Office on January 27, 1999, appellant requested reconsideration. She submitted medical records supporting a diagnosis of right S1 radiculopathy, tethered root.

In a decision dated February 12, 1999, the Office denied appellant's request on the grounds that it was untimely and failing to reflect any clear error in the Office's June 2, 1997 decision. The Office observed that none of the medical evidence provided an opinion that

¹ 20 C.F.R. § 10.607.

appellant's right S1 radiculopathy with tethered root was due to standing all day on her window clerk job.

Appellant filed her written request for reconsideration more than one year after the Office's June 2, 1997 decision denying her claim. The Office properly found that it was untimely. The Office also properly found that the request and supporting evidence failed to show clear evidence of error in the Office's June 2, 1997 decision. One of the reasons given by the Office for denying appellant's claim was that the medical evidence failed to provide an opinion on causal relationship. The Board has reviewed all the evidence submitted after the Office's June 2, 1997 decision and notes that appellant has still not provided a reasoned medical opinion explaining how her diagnosed back condition was caused or aggravated by specific factors of her federal employment.² Causal relationship is an essential element of appellant's claim, and with no medical opinion evidence to support this essential element, her request for reconsideration fails to show that the Office's June 2, 1997 denial of compensation was clearly erroneous.

The February 12, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
December 8, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Valerie D. Evans-Harrell
Alternate Member

² The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). The Board therefore has no jurisdiction to review evidence submitted to the record after the Office's February 12, 1999 decision.